HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION No.7864 of 2006

Date: 20-04-2006

Between:

G. Venkataiah

…. Petitioner

and

The Vasavi Cooperative Urban Bank Ltd.,

Malakpet, Hyderabad, rep.by its

Managing Director and 2 others.

…Respondents.

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ORDER :

This writ petition is filed by the petitioner aggrieved by the notice issued by the second respondent proposing to conduct public auction of the house belonging to the petitioner for recovery of the loan amount due by the petitioner to the first respondent bank as being arbitrary and illegal.

Heard learned counsel on either side.

For due execution of the decree obtained by the first respondent – Vasavi Cooperative Urban Bank Limited, in E.P.No.115/2003/OSD/VCUB filed before the Deputy Registrar of Cooperative Societies, a sale notice was issued in Form No.8 on
29-6-2005, but the same was withdrawn on 20-7-2005 in view of the orders passed by this Court in W.P.No.1754 of 2004 and batch, dated 5-7-2005. Questioning the correctness of the order passed by this Court, the affected banks carried the matter in appeal before the Supreme Court in Civil Appeal No.6069 of 2005, wherein the Supreme Court stayed the operation of the judgment passed in the above writ petition and batch and held that if any amount is recovered from or paid to the Cooperative Banks concerned, in view of the order of stay granted by this Court, it shall be open to them to seek appropriate relief from the Bench finally hearing these matters for refund of the said amount and interest thereon.

In view of the staying of operation of the judgment, the first respondent bank issued sale notice in the said E.P., which is the subject matter of challenge in the present writ petition.

In view of the stay granted by Supreme Court, there is no impediment for the first respondent bank to proceed for recovery of the amount in execution of the decree obtained by it. In view of the same, the auction of the house of the petitioner in execution of the decree obtained by the first respondent bank cannot be stalled. However, the petitioner is at liberty to question the award/certificate, which is now sought to be executed, before the appropriate forum and also to approach the Sale

Officer under Rule 52 of the Cooperative Societies Rules, for setting aside or postponement of the sale, as the case may be.

The writ petition is accordingly dismissed. No costs.

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A. GOPAL REDDY,J)

20-4-2006.

Msr.

HON'BLE SRI JUSTICE A.GOPAL REDDY

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20-04-2006

(Msr)